

Mark C. Mao, CA Bar No. 236165
 Beko Reblitz-Richardson, CA Bar No. 238027
 Erika Nyborg-Burch CA Bar No. 342125
BOIES SCHILLER FLEXNER LLP
 44 Montgomery St., 41st Floor
 San Francisco, CA 94104
 Tel.: (415) 293-6800
 mmao@bsflp.com
 brichardson@bsflp.com
 enyborg-burch@bsflp.com

James Lee (admitted *pro hac vice*)
 Rossana Baeza (admitted *pro hac vice*)
BOIES SCHILLER FLEXNER LLP
 100 SE 2nd St., 28th Floor
 Miami, FL 33131
 Tel.: (305) 539-8400
 jlee@bsflp.com
 rbaeza@bsflp.com

Amanda K. Bonn, CA Bar No. 270891
SUSMAN GODFREY L.L.P.
 1900 Avenue of the Stars, Suite 1400
 Los Angeles, CA 90067
 Tel: (310) 789-3100
 Fax: (310) 789-3150
 abonn@susmangodfrey.com

Attorneys for Plaintiffs

William Christopher Carmody
 (admitted *pro hac vice*)
 Shawn J. Rabin (admitted *pro hac vice*)
 Steven M. Shepard (admitted *pro hac vice*)
 Alexander Frawley (admitted *pro hac vice*)
SUSMAN GODFREY L.L.P.
 1301 Avenue of the Americas,
 32nd Floor
 New York, NY 10019
 Tel.: (212) 336-8330
 bcarmody@susmangodfrey.com
 srabin@susmangodfrey.com
 sshepard@susmangodfrey.com
 afrawley@susmangodfrey.com

John A. Yanchunis (admitted *pro hac vice*)
 Ryan J. McGee (admitted *pro hac vice*)
MORGAN & MORGAN
 201 N. Franklin Street, 7th Floor
 Tampa, FL 33602
 Tel.: (813) 223-5505
 jyanchunis@forthepeople.com
 mram@forthepeople.com
 rmcgee@forthepeople.com

Michael F. Ram, CA Bar No. 104805
MORGAN & MORGAN
 711 Van Ness Ave, Suite 500
 San Francisco, CA 94102
 Tel: (415) 358-6913
 mram@forthepeople.com

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
 JEREMY DAVIS, CHRISTOPHER
 CASTILLO, and MONIQUE TRUJILLO
 individually and on behalf of all similarly
 situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**PLAINTIFFS' SUPPLEMENT IN
 SUPPORT OF THEIR MOTION FOR
 ORDER REQUIRING GOOGLE TO
 SHOW CAUSE WHY IT SHOULD
 NOT BE SANCTIONED FOR
 DISCOVERY MISCONDUCT**

The Honorable Susan van Keulen
 Courtroom 6 – 4th Floor
 Date: April 21, 2022

INTRODUCTION

Since Plaintiffs filed their motion for an order to show cause why Google should not be sanctioned (Dkt. 430), [REDACTED]

[REDACTED].¹ Plaintiffs' motion focused on Google's [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

As confirmed in meet and confers with counsel for Google, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹ Plaintiffs submit this supplement to give Google an opportunity to also address these issues as part of its response to Plaintiffs' motion, due on March 30, 2022, pursuant to the parties' stipulation and proposed order (Dkt. 474), and so Google may be prepared to address them at the April evidentiary hearing.

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[REDACTED]

As demonstrated in their moving papers, Plaintiffs have been severely prejudiced by Google’s discovery misconduct. But for Google’s pattern of nondisclosure, Plaintiffs could have (1) sought to ensure preservation of this key data at the outset of this case, and (2) completed the Special Master data productions far earlier and more efficiently. In addition, (3) Plaintiffs were entitled to all of the [REDACTED] and to schedule depositions based on those documents. Plaintiffs respectfully request that the Court issue appropriate sanctions against Google, as Plaintiffs requested in their moving papers.

SUPPLEMENTAL FACTS

[REDACTED]

² [REDACTED]

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[REDACTED]

[REDACTED] Ex. 1, GOOG-BRWN-00536949.³

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 7.

[REDACTED]

[REDACTED] . ¶ 9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 11.

[REDACTED]

[REDACTED]

[REDACTED] ¶ 13 & Ex. 2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Ex. 3, Sadowski Tr. 71:8-23. [REDACTED]

[REDACTED]

³ Except where otherwise noted, all exhibit and paragraph references in this submission are to the Second Declaration of Mark C. Mao in Support of Plaintiffs' Request for an Order to Show Cause, which is filed concurrently herewith.

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[REDACTED]

[REDACTED]

[REDACTED]

Despite Plaintiffs' multiple demands and meet and confer efforts, [REDACTED]

[REDACTED]

[REDACTED].⁴ ¶ 18.

On March 11 (following the Rule 30(b)(6) deposition), [REDACTED]

[REDACTED]

[REDACTED] ¶ 19.

[REDACTED]

[REDACTED] ¶ 18. [REDACTED]

[REDACTED] ¶¶ 21-22. [REDACTED]

[REDACTED]

[REDACTED] *See id.*; Dkt. 430-21. [REDACTED]

[REDACTED]

[REDACTED]

⁴ [REDACTED]

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SUPPLEMENTAL ANALYSIS

The Court's November 12 Order was clear. Dkt. 331. Google was required to identify all relevant logs and sources, i.e., "the tools to identify class members using Google's data." Dkt. 331 at 4. Google has not done so. And Google's refusal to comply has created enormous inefficiencies and prejudiced Plaintiffs' ability to obtain and seek preservation of relevant discovery. Plaintiffs' motion for an order to show cause was focused on the [REDACTED] But it now appears that Google has also been [REDACTED]

See Dkt. 430-21.

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[REDACTED]

[REDACTED] ¶ 20. [REDACTED]

[REDACTED]

[REDACTED] ¶ 21. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Dkt. 430-1 ¶ 19.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 24.

[REDACTED]

[REDACTED] On March 8, pursuant to this Court's

order, Plaintiffs deposed Google employee Mandy Liu, as she is one of the employees [REDACTED]

[REDACTED] Ex. 4, Liu Tr. 15:2-8. [REDACTED]

[REDACTED]

[REDACTED] Ex. 4, Liu Tr. 19:24-20:8. [REDACTED]

[REDACTED] Ex. 4, Liu Tr. 41:23-

42:12. [REDACTED] ¶ 28.

[REDACTED] ¶ 28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Ex. 3, Sadowski Tr. 91:2-8.

[REDACTED]

[REDACTED]

1 [REDACTED]
2 ¶ 29. [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] Google chose not to do so, which has severely
6 prejudiced Plaintiffs.

7 Discovery is now closed. And yet Plaintiffs still do not have answers to multiple questions:
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED] Had this
14 information been fully and timely disclosed, the parties could have had an informed discussion
15 about preservation to ensure that Google did not delete relevant data. Plaintiffs have now been
16 deprived of that opportunity and data.

17 **CONCLUSION**

18 Plaintiffs respectfully request that the Court consider these issues in connection with the
19 upcoming evidentiary hearing and thereafter issue appropriate sanctions against Google.

20
21 Dated: March 16, 2022

BOIES SCHILLER FLEXNER LLP

22
23 By /s/ Mark C. Mao

24
25 Mark C. Mao (CA Bar No. 236165)
mmao@bsflp.com
26 Beko Rebitz-Richardson (CA Bar No. 238027)
brichardson@bsflp.com
27 Erika Nyborg-Burch (CA Bar No. 342125)
enyborg-burch@bsflp.com
28

BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, 41st Floor
San Francisco, CA 94104
Telephone: (415) 293 6858
Facsimile (415) 999 9695

James W. Lee (*pro hac vice*)
jlee@bsflp.com
Rossana Baeza (*pro hac vice*)
rbaeza@bsflp.com
BOIES SCHILLER FLEXNER LLP
100 SE 2nd Street, Suite 2800
Miami, FL 33130
Telephone: (305) 539-8400
Facsimile: (305) 539-1304

Amanda Bonn (CA Bar No. 270891)
abonn@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: (310) 789-3100

William Christopher Carmody (*pro hac vice*)
bcarmody@susmangodfrey.com
Shawn J. Rabin (*pro hac vice*)
srabin@susmangodfrey.com
Steven Shepard (*pro hac vice*)
sshepard@susmangodfrey.com
Alexander P. Frawley (*pro hac vice*)
afrawley@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1301 Avenue of the Americas, 32nd Floor
New York, NY 10019
Telephone: (212) 336-8330

John A. Yanchunis (*pro hac vice*)
jyanchunis@forthepeople.com
Ryan J. McGee (*pro hac vice*)
rmcgee@forthepeople.com
MORGAN & MORGAN, P.A.
201 N Franklin Street, 7th Floor
Tampa, FL 33602
Telephone: (813) 223-5505
Facsimile: (813) 222-4736

Michael F. Ram, CA Bar No. 104805
MORGAN & MORGAN

711 Van Ness Ave, Suite 500
San Francisco, CA 94102
Tel: (415) 358-6913
mram@forthepeople.com

Attorneys for Plaintiffs

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